

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:11-cv-00879-JPG-PMF
)	CJRA TRACK: B¹
MACH MINING, LLC,)	PRESUMPTIVE TRIAL MONTH
)	November 2012
Defendant.)	JUDGE: J. Phil Gilbert
)	

**JOINT REPORT OF PARTIES
AND PROPOSED SCHEDULING AND DISCOVERY ORDER**

Pursuant to Federal Rule of Civil Procedure 26(f) and SDIL-LR 16.2(a), an initial conference of the parties was held on January 11, 2012 with attorneys Ethan Cohen and Ann Henry for EEOC and R. Lance Witcher and Sarah Swatosh for Mach Mining, LLC participating.

SCHEDULING AND DISCOVERY PLANS WERE DISCUSSED AND AGREED TO AS FOLLOWS:

1. The parties shall exchange initial disclosures pursuant to Federal Rules of Civil Procedure 26(a)(1) by February 10, 2012.
2. The parties shall serve initial interrogatories and requests to produce, pursuant to Federal Rules of Civil Procedure 33 and 34 and SDIL-LR 33.1, by February 24, 2012.
3. Plaintiff's depositions shall be taken by March 1, 2013.²
4. Defendant's depositions shall be taken by March 1, 2013.
5. Motions to amend the pleadings, including the commencement of a third party action, shall be filed by March 10, 2012.

¹ ¹ Due to the fact that the EEOC seeks relief on behalf of at least 34 claimants, the parties jointly propose that this case be moved to either Track C or Track D with a presumptive trial month of August 2013.

² ² Defendant anticipates that it will seek to depose each claimant. Both parties agree that they will need more than 10 depositions to complete discovery.

6. Expert witnesses shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:

Plaintiff's expert(s): November 1, 2012

Defendant's expert(s): January 15, 2013

Third Party expert(s): N/A

7. Depositions of expert witnesses must be taken by:

Plaintiff's expert(s): December 15, 2012

Defendant's expert(s): February 15, 2013

Third Party expert(s): N/A

8. Discovery shall be completed by March 1, 2013 (which date shall be no later than 115 days before the first day of the presumptive trial month). Any written interrogatories or request for production served after the date of the Scheduling and Discovery Order shall be served by a date that allows the served parties the full 30 days as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date.
9. All dispositive motions shall be filed by April 1, 2013 (which date shall be no later than 100 days before the first day of the presumptive trial month). Dispositive motions filed after this date will not be considered by the Court.

Defendants propose that any *Daubert* motion challenging the admissibility of an expert report be filed no later than May 16, 2013. EEOC has no objection to this proposal.

EEOC submits that this case may be appropriate for trial in phases following a *Teamsters* model, and that such a model may also lend itself to phased discovery. However, due to the size of the class, such bifurcation may not be necessary. EEOC proposes that the parties and the Court address this issue again in approximately three to four months.

DATED: January 17, 2012

s/ Ethan M. M. Cohen
Attorney for Plaintiff

s/ R. Lance Witcher (with consent)
Attorney for Defendant